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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,395	06/22/2001	Christophe Dauga	P 0281180 B00/1600US	4258
909	7590	01/19/2005	EXAMINER	
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102			SHAW, SHAWNA JEANNINE	
		ART UNIT	PAPER NUMBER	
		3737		

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/886,395	DAUGA, CHRISTOPHE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shawna J. Shaw	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 January 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 and 15-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 June 2001 and 03 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 1 line 9 of the specification, it appears that "land" should be --kind--. Appropriate correction is required.

### ***Claim Interpretation/Definitions***

2. The examiner understands white light to be substantially the same as the solar spectrum. See specification page 8 lines 5-7.

### ***Claim Objections***

3. Claims 21-23 are objected to because of the following informalities: a rotatable or electrical switching polarization analyzer is inconsistent with the polarizing splitter cube as optionally set forth in claim 16. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 and 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazin et al. in view of Guiolet et al.

Regarding claims 1-12 and 15-26, Bazin et al. disclose a polarizing splitter cube (3s, 3d), a photodetector (5, 7) and a processing unit (E) "arranged" (i.e., configured) to calculate intensity (I) and brightness. See fig. 1 and col. 3 lines 28-55 and 59-64. Bazin

differs from the claimed invention in that a digital image acquisition device and white light source are not explicitly addressed. In the same field of endeavor, Guiolet et al. disclose that a white light source and CCD detector may be used instead of a monochromatic light source and photomultipliers to acquire instantaneous measurements across the spectrum (col. 8 lines 21-27). It would have therefore been obvious at the time the invention was made to a person of ordinary skill in the art to replace the light source and photodetectors of Bazin et al. with a white light source and digital detectors such as CCD's as taught by Guiolet et al. to obtain faster measurement times and therefore reduce the duration of the procedure. Further regarding claims 1, 2, 6-8, 21-23 and 26, Bazin et al. uses polarizing splitter cubes instead of a single polarization analyzer element constructed to alternately transmit a crossed polarization state and a parallel polarization state. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use either two polarization beam-splitter cubes, a rotatable polarization analyzer or an electro-optic switchable analyzer because Applicant has not disclosed that either type of analyzer provides an advantage, is used for a particular purpose, or solves a stated problem (see specification of the present invention page 9 lines 7-11 and page 9 line 35 – page 10 line 15). One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the two polarizing beam-splitter cubes of Bazin et al. because all are able to effectively separate the reflected light (brightness) from the backscattered light (color). Further regarding claim 25, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to

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automate the process of Bazin et al. in view of Guiolet et al. (via computer programmable code) as such automation of a process is well known.

***Response to Amendment***

5. The finality of the previous office action is withdrawn in view of newly discovered references to Bazin et al. and Guiolet et al. (both to the same assignee of record).

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawna J. Shaw whose telephone number is (571) 272-4743. The examiner can normally be reached on 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shawna J. Shaw  
Primary Examiner  
Art Unit: 3737  
1/13/2005